

Wednesday, April 30, 2008

Trademark Trials and Appeals

ESTTA Tracking Number: ESTTA186721

Proceeding: #92048775

78460164

Andrew P. Baxley, Interlocutory Attorney

This correspondence is an answer to the Petition for Cancellation filed by Atty. Manny D. Pokotilow on behalf of Emoda.com Corporation located in Madison, WI. It is EMOD's understanding that Emoda.com has filed this petition after their submission from the Patent and Trademark office was rejected. EMOD finds it quite disturbing that we are in the position of having to defend a trademark that was officially granted to us by the Trademark office after many months of processing.

EMOD declares the following:

1. EMOD is an investment group that was established in March of 1999 with the sole intent of investing in stocks and mutual funds. Subsequent to our formation, one of our original members, a graphic designer, created a unique mark/logo for our group. Over the next couple of years EMOD conducted business as an investment group. In the course of our business we decided to have shirts created for our members. As time progressed various members received glowing compliments on the mark/logo and people often inquired the meaning of our group name, EMOD. Consequently in August 2004, a decision as made at that time to apply for a trademark and begin to market our name and mark/logo.
2. During the trademark processing stage, EMOD began using the symbol in commerce and advertising. EMOD held several fundraising-bowling activities and purchased several promotional items that were dispensed during these activities. These promotional items included key rings, visors, polo shirts and rubber bracelets that have our mark/logo emblazed and/or embroidered. Also tickets to the various events had the EMOD mark and name printed on them.
3. EMOD contracted a website firm to develop a custom Internet site (www.emodonline.com) for ecommerce selling of our product line. The sports line site is www.emodonline.com/sports55.html. Substantial investments have been made in regards to marketing our mark/logo since our trademark was approved. EMOD has purchased a large inventory of shirts for sell. EMOD has also purchased additional promotional items and intends to market our mark/logo and name widely throughout the state of Maryland.



05-15-2008

4. It is our contention that any action to cancel or revoke our trademark will introduce undue damage to our Limited Liability Corporation. The petitioner claims to have used EMODA in connection with services as early as May 31, 2003 but failed to apply for a trademark that time. It is EMOD's position that at any time EMODA could have applied for a trademark for their mark. EMODA did not apply for trademark status until after EMOD had already begun the application process.
5. The U.S. Patent and Trademark office has already rendered a decision to deny the petitioners mark as a result of the existence of the EMOD registration (#3294672) which has been deemed as likely to be confused with EMOD's mark/logo.
6. Enclosed are several supporting documents that pertain to proof of service as required by Trademark rule 2.119(a). Based on the information provided EMOD respectfully prays that the petition for cancellation be dismissed wholeheartedly without prejudice.

Respectfully Submitted,

Jamiar Tucker
EMOD Treasurer
2657-G Annapolis Road
PMB #444
Hanover, MD 21076

Certificate of Mailing

I hereby certify that the foregoing response to the Petition for Cancellation has been electronically filed with the United States Patent and Trademark Office Trademark Trials and Appeals Board via the Electronic System for Trademark Trial and Appeals Board (ESTTA), on this 30th day of April 2008.


Certificate of Service

I hereby certify that one (1) copy of the foregoing answer to the Petition for Cancellation has been served upon the Petitioner via First Class Mail, postage prepaid. In an envelope addressed to Many D. Pokotilow, 11th Floor - Penn Center, 1635 Market Street, Philadelphia, PA 19103-2212 on this 30th day of April.

/jst/

Jamiar S. Tucker, EMOD Treasurer

EMOD bowling ticket: 2007




2nd Annual Saturday July 14, 2007 12:30 - 3:00 p.m. start-time sharp		BOWLING <i>Extrava ganza</i>
Sponsored by EBONY MEN OF DISTINCTION		
Contact: Jamiar 443-286-2895 Greenway Bowl Center 8246 Telegraph Road Odenton, MD 21113 410.551.7100	TICKETS: Adults: \$20 Children: \$15 [14 & under] Family Pack: \$60 [2 adults/2 kids]	RAFFLE: New Nano-iPod High Bowler Prize FOOD: One large pizza and pitcher of soda per lane incl.

EMOD promotional bracelet - A



P.O. Box 131508 • Carlsbad, CA 92013
Phcne: (888) 720-2115 • Fax: (760) 744-8077

Proof #1A 05/19/07
Silicone Bracelet


BRACELET COLOR
 PMS 282C
 DEBOSSSED
Dan Greenberg sales@linxcorp.us

EMOD promotional bracelet – B



P.O. Box 131508 • Carlsbad, CA 92013
Phone: (888) 720-2115 • Fax: (760) 744-8077

Proof #1B 05/19/07
Silicone Bracelet

BRACELET COLOR



PMS 150C



DEBOSSSED

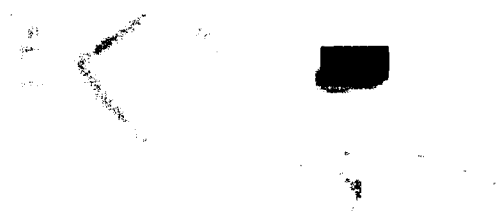
Dan Greenberg
sales@linxcorp.us



EMOD shirts:

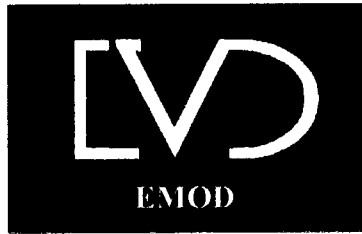


EMOD



EMOD





2nd Annual
BOWLING
Extravaganza

July 14, 2007

STARTS PROMPTLY AT **12**^{:30} PM
until 3:00 PM

LOCATION:

Greenway Bowl Center
8246 Telegraph Road
Odenton, MD 21113
410.551.7100

FOR MORE INFORMATION

TICKETS:

Adults: \$20

Children: \$15

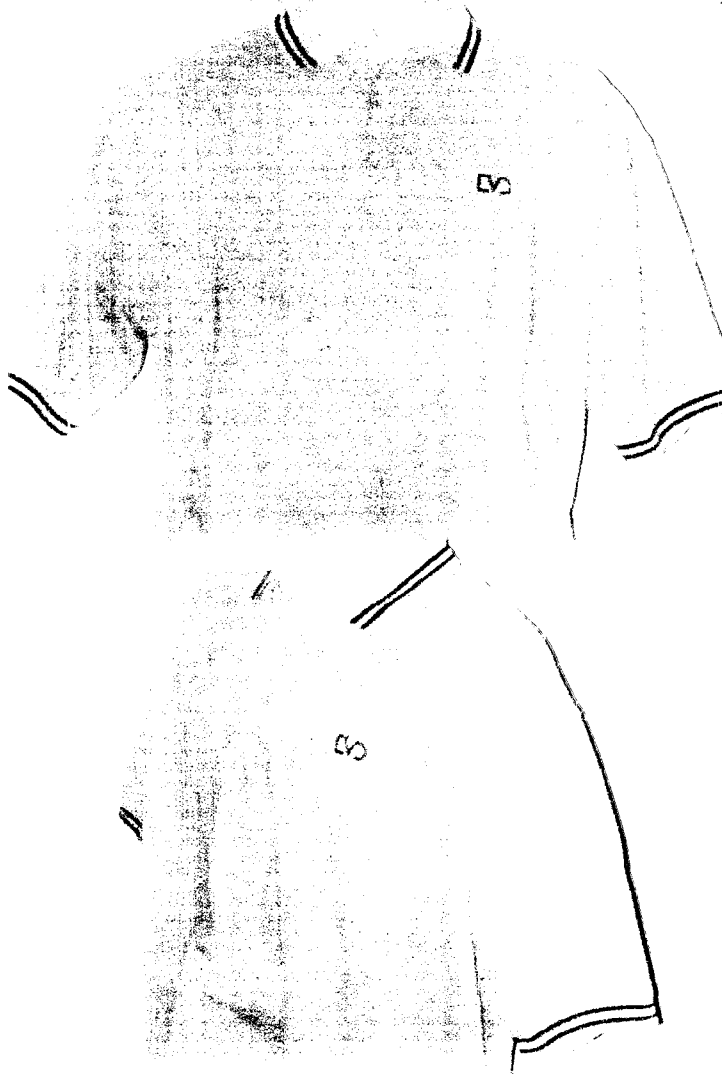
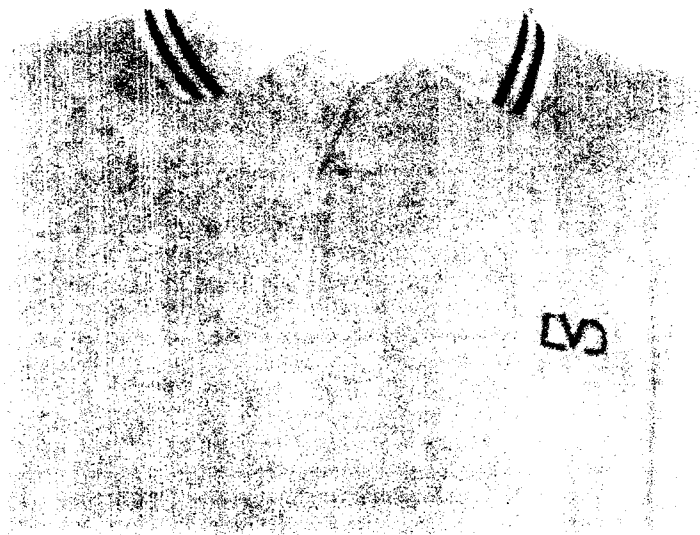
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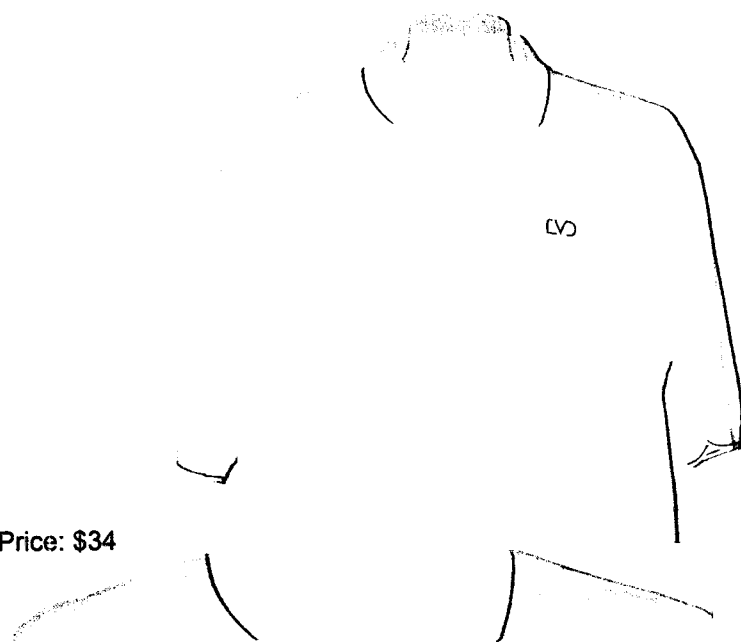
Price: \$

27

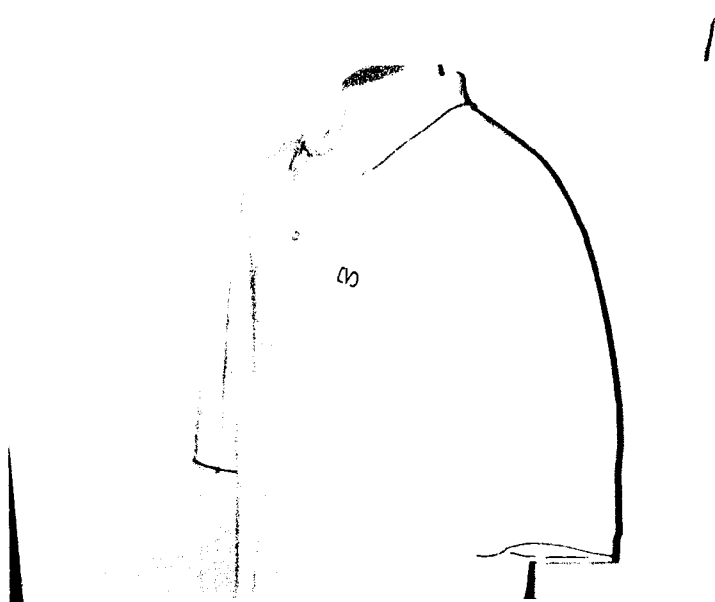


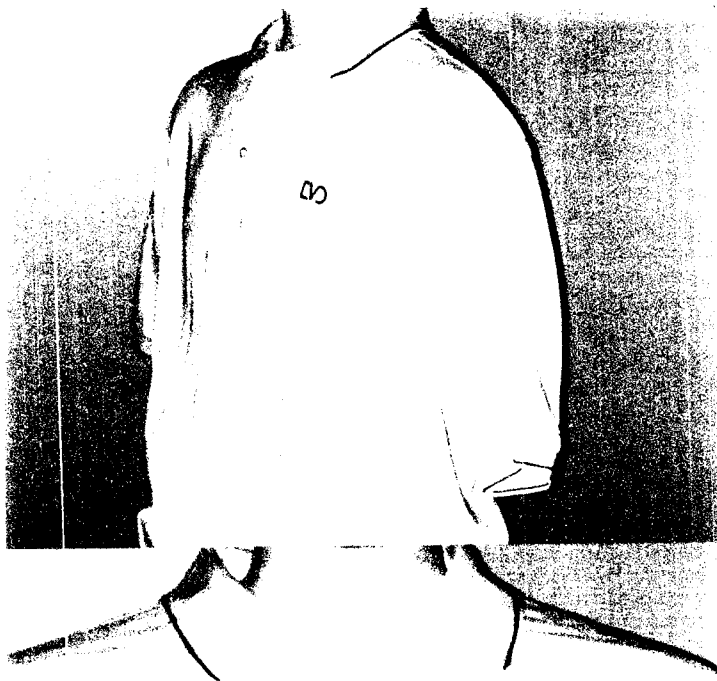


Price: \$34



CV





CV

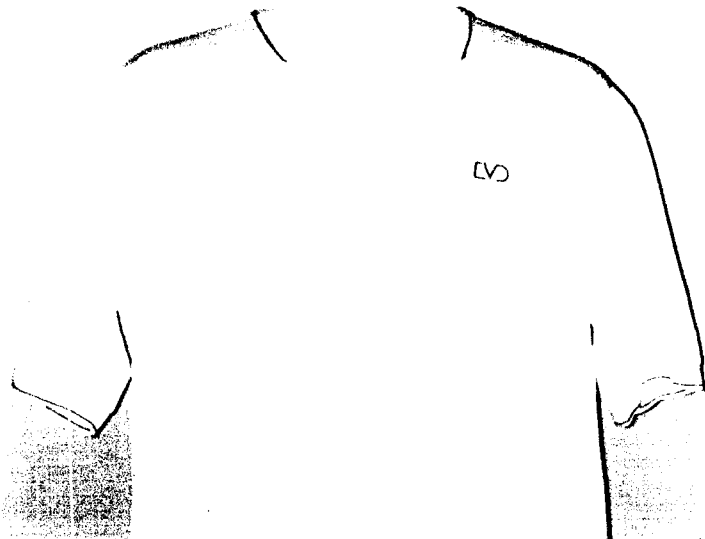




Figure 1



